

Remarks

The Office Action mailed April 6, 2005 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-2, 6-9, and 12 are pending in this Application after entry of this Amendment. Claims 13-21 have been cancelled. No claims have been amended or added.

A two month extension of time is requested in an accompanying Transmittal letter, as is authorization for payment from a deposit account. Should this extension of time and/or authorized payment be insufficient for entry of this Amendment and accompanying documents, the Office is authorized to consider this a request for the necessary extension of time and/or consider this as authorization to charge the same account the necessary fees for entry of this Amendment and accompanying documents.

In response to the constructive election requirement set forth in the Office Action, Applicant has cancelled Claims 13-21, which were withdrawn from consideration by the Office.

The rejection of Claims 1-2, 6-9, and 12 under 35 U.S.C. 102(e) as being anticipated by Broderson et al., U.S. Patent Application No. 2002/0065764 is respectfully traversed.

A Declaration in Support of Patentability is attached hereto showing that the subject matter of Applicant's claims was invented prior to the alleged December 17, 1999 filing date of Broderson et al., and thus, the rejection of Claims 1-2, 6-9, and 12 over BrodersOn et al. should be withdrawn.

More specifically, an invention disclosure is attached to the Declaration. This invention disclosure was completed and signed by the inventor on December 6, 1999 and witnessed by a fellow employee on the same day. The disclosure shows the following had been conceived by the inventor prior to the alleged priority date of Broderson et al.:

(a) A networked-based parts distribution system is described on page A3, paragraph 1.4.1-6 and pictorially on pages A4, A5, A6, A7, A8, and especially A9, item 2, where it is noted that the database is accessed via the Web.

(b) A plurality of buyer computers for operation by a system participant desiring to obtain one or more parts is clearly in the combination of A8 and A9, where sites are shown in disparate locations and database access is described as via the Web.

(c) A plurality of seller computer computers for operation by a system participant desiring to sell one or more parts is shown in the combination of A5, A6, A7, A8, A9, and A10, particularly wherein brokers (plural) upload information about parts. Also see page A3, paragraph 1.5 describing multiple suppliers.

(d) At least one server computer, wherein said buyer computers, said seller computers, and said server computer are interconnected as a computer network is shown A7, A8, and A9.

(e) Said server computer being programmed to receive part related data from said seller computers and use said data to maintain a database of all available parts is described at A3, paragraph 1.4.1-3, and is illustrated at A4-A8.

(f) Said server computer programmed to receive part requests from said buyer computers and select one or more parts from said database in response to said requests is described at page A3, paragraph 1.4.4-6, and is illustrated at A4-A8.

(g) Said parts in said database sorted into a plurality of inventory categories is shown and described at page A3, paragraph 1.4.1, and at A4, A5, A6, and A8.

(h) Said parts in at least one of said inventory categories further sorted into a plurality of sub-inventory categories based on part condition is shown and described at page A3, paragraph 1.4.1, and at A4, A5, and A6.

(i) A signed master agreement between said system participants, including said system participants desiring to sell parts and said system participants wishing to obtain parts, is shown and described at page A6, paragraph 2 under item "OH" and at page A9, item 3.

(j) Said master agreement specifying terms of blanket purchase orders and said master agreement providing for auditing to check accuracy of said part-related data received

from said seller computer is shown and described at "Central QC Records Approval" at page A4, by the same icon at page A5, and at the bullet point "Quality Control" on page A10.

(k) Said server computer to relay a purchase order consistent with said specified terms of blanket purchase orders issued by one of said buyer computers to an appropriate one of said seller computers is shown and described at page A3, paragraph 1.4.5 and 1.5, page A6, item 2 under "OH," page A8, "Web system issues a blanket PO to the respective site," page A9, items 3 and 4, and page A10.

(l) Said server computer selecting parts according to a buyer-specific picking order is shown and described at page A3, paragraphs 1.4.4, 1.4.5, and 1.5, page A6, item 2 under "OH," pages A7 and A8, "Customer picking rules looks to sub-inventory to fill demand, page A9, paragraph 2, and the first bullet point on page A10.

(m) The computer network is the Internet is shown and described at page A9, item 2 ("the Web").

Moreover, the declaration states that work had been diligently proceeding to reduce the invention to practice and that this Application was filed promptly and diligently.

Also, the Office asserts that the rejection under Brodersen et al. is based on the December 17, 1999 filing date of the Brodersen et al. parent application 09/466,262, which is the correct date recorded at the PTO. However, the Brodersen et al. patent states that the published application (U.S. Patent Application No. 2002/0065764) is a continuation-in-part of the parent application. This type of parentage certainly implies that new subject matter was added to the published application cited by the Office. Because of the probable presence of new subject matter, the cited publication cannot be relied upon to accurately reflect the content of the parent application on the date relied upon for the rejection. Moreover, the Office did not indicate where in parent application 09/466,262 the cited subject matter appears, and the parent application is not available for download from the United States Patent and Trademark Office, presumably because it has not itself issued as a patent. Thus, a *prima facie* case for anticipation has not properly been made by the Office, a reason which alone should be sufficient to require this rejection to be withdrawn.

For the above reasons, it is requested that the rejection of Claims 1-2, 6-9, and 12 under 35 U.S.C. 102(e) as being anticipated by Broderson et al., U.S. Patent Application No. 2002/0065764, be withdrawn.

For the record, the inventor's residence address and post office address were left blank on the declaration that he signed. His current address is, however, 28669 Placerview Trail, Santa Clarita, CA 91390, and his post office address is the same. The addition of the signature block for Alan L. Cassel was a scrivener's error on the original declaration signed by the inventor.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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